



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.1248 of 2023 (O&M)

Date of Decision: 15.05.2025

Paramjit Singh

....Petitioner

Versus

Kamaljit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Aseem Sharma, Advocate
for the petitioner (through hybrid mode).

VIKRAM AGGARWAL, J (ORAL)

CM-3603-CII-2023

The present application has been preferred under Section 151 CPC read with Section 5 of the Limitation Act for condonation of delay of 40 days in filing the petition.

As the present revision petition has been filed under Article 227 of the Constitution of India, there would be no requirement of filing an application for condonation of delay as there is no period of limitation fixed for preferring a petition under Article 227 of the Constitution of India.

The application is accordingly disposed of.

CR No.1248 of 2023

The present revision petition is directed against the order dated 16.08.2022 (Annexure P-4) passed by the Court of Civil Judge (Senior Division), Fatehgarh Sahib, vide which the application filed by the petitioner-defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC') was rejected.

2. The facts, as emanating from the revision petition, are that a civil suit for recovery claiming ₹1,50,000/- as damage to reputation, defamation etc. was filed by the respondent-plaintiff against the petitioners-defendants. During the pendency of the suit, an application under Order 7 Rule 11 CPC for rejection of plaint on account of non-affixation of *ad valorem* Court fee (Annexure P-2) was moved by the petitioner-defendant. It was averred in the application that since recovery of ₹1,50,000/- as damages had been prayed for, Court fee was liable to be affixed. The application was opposed by way of a reply (Annexure P-3) wherein certain preliminary objections were raised. On merits, the application was opposed.

3. By way of the impugned order dated 16.08.2022, the application moved under Order 7 Rule 11 CPC was dismissed leading to the filing of the present revision petition.

4. I have heard learned counsel for the petitioner.

5. Learned counsel for the petitioners submits that the view taken by the trial court is erroneous, for, liquidated amount of damages were claimed by the petitioner-defendant. He submits that in view of the judgment passed by the Supreme Court of India in the case of ***State of Punjab and others vs. Dev Brat Sharma, 2022 (2) RCR (Civil) 464***, *ad valorem* Court fee would be liable to be paid on amount of damages claimed.

6. I have considered the submissions made by learned counsel for the petitioner.

7. The plaint is on record as Annexure P-1. The heading of the plaint reads as under:-

“Suit for recovery of ₹1,50,000/- as damages reputation, economic harassment to the on account of loss defamation, loss, mental of tension, agony and caused by the defendant

plaintiff, along with interest at the rate of 18% P.A. or any such rate by this future during as may be determined Hon'ble interest pendency realization. Court and also at the same of suit rate till realization."

8. The prayer in the plaint (Annexure P-1) reads as under:-

16. That under the circumstances, plaintiff suffered huge loss and damages but plaintiff claim only Rs.1,50,000/- as damages from the defendant detailed as under:

i) Damages for mental agony

and bodily pain and harassment- Rs.50,000/-

2) Damages for loss of reputation- Rs.50,000/-

iii) Damages for loss of work- Rs.50,000/-

Total- Rs.50,000/-

9. The plaintiff in Paragraph (24) of the plaint himself assessed value of the suit for the purposes of relief as ₹1,50,000/- and averred that tentative Court fee of ₹50 had been affixed.

10. In the considered opinion of this Court, the matter now stands settled in view of the judgment of the Supreme Court of India in the case of ***State of Punjab and others vs. Dev Brat Sharma (supra)***. In the said case, a suit for recovery of ₹20,00,000/- as damages was filed by one Dev Brat Sharma against the State of Punjab. It was claimed that the status of a freedom fighter had wrongly been denied to him which resulted in loss of reputation and, therefore, damages of ₹20,00,000/- were claimed. An application under Order 7 Rule 11 CPC was moved which was allowed by the trial Court and the plaintiff was called upon to make good the deficiency in Court fee within 10 weeks. This decision was challenged before the High Court. The High Court allowed the revision petition and set aside the order passed by the trial Court, consequently dismissing the application for

rejection of plaint. The matter then reached the Supreme Court of India. The Supreme Court of India, after analyzing the provisions of the Court Fees Act, 1870 (hereinafter referred to as 'the Court Fees Act') came to the conclusion that such a case would fall under Section 7(i) of the Court Fees Act and not under Section 7 (iv) thereof. The Supreme Court of India, therefore, set aside the order passed by the High Court and affirmed the order passed by the trial Court.

11. Coming back to the present case, the trial Court erroneously observed that it is yet to be decided by the Court as to whether the respondent is entitled to damages or not and if yes, to what extent. To some extent, the trial Court was right because the exact amount had to be determined by the Court. However, ₹1,50,000/- as compensation was a liquidated amount claimed by the plaintiff. He was, therefore, required to pay Court fee on the said amount and in case subsequently more compensation is awarded, the Court would call upon the plaintiff to deposit the Court fee accordingly. In the considered opinion of this Court, keeping in view the facts of the present case and the judgment of the Supreme Court of India in the case of ***State of Punjab and others Vs. Dev Brat Sharma (supra)***, the impugned order is not sustainable.

12. As a consequence thereof, the present revision petition is allowed. The impugned order dated 16.08.2022 (Annexure P-4) passed by the Court of learned Civil Judge (Senior Division), Fatehgarh Sahib, vide which the application under Order 7 Rule 11 CPC was dismissed, is set aside. The prayer made in the application is allowed and eight weeks time is granted to the respondent-plaintiff to make good the deficiency in Court fee failing which the plaint shall stand rejected.

Since the main petition has been decided, all pending applications stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

May 15, 2025
Rekha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>